

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

NETLIST, INC.,)	
)	
Plaintiff,)	
)	Case No. 2:22-cv-293-JRG
vs.)	
)	JURY TRIAL DEMANDED
SAMSUNG ELECTRONICS CO., LTD.;)	(Lead Case)
SAMSUNG ELECTRONICS AMERICA,)	
INC.; SAMSUNG SEMICONDUCTOR)	
INC.,)	
)	
Defendants.)	

NETLIST, INC.,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 2:22-cv-294-JRG
)	
MICRON TECHNOLOGY, INC.;)	JURY TRIAL DEMANDED
MICRON SEMICONDUCTOR)	
PRODUCTS, INC.; MICRON)	
TECHNOLOGY TEXAS LLC,)	
)	
Defendants.)	

**NETLIST, INC.’S MOTION REQUESTING MOTION TO COMPEL MICRON
TO DE-DESIGNATE TRANSCRIPT OF SCOTT CYR (DKT. 274) AND
MOTION TO EXPEDITE (DKT. 279) TO BE HEARD BY THE SPECIAL
MASTER, HON. DAVID FOLSOM**

Plaintiff Netlist Inc. (“Netlist”) respectfully files this motion requesting that Special Master

Hon. David Folsom hear:

- (1) Netlist’s Motion to Compel Micron Defendants to De-Designate Portions of Deposition Testimony of Scott Cyr filed on December 13, 2023. Dkt. 274 (“Motion to De-designate”); and
- (2) Netlist’s Motion to Expedite Briefing on Netlist’s Motion to Compel Micron Defendants to De-Designate Portions of Deposition Testimony of Scott Cyr filed on December 14, 2023. Dkt. 279 (“Motion to Expedite”).

During the conference call on December 21, 2023, Judge Folsom has indicated that he will hear the motions assigned to him on January 5th, and indicated that if Netlist believes Dkt. 274 should be part of that resolution it should move the Court. Judge Folsom has requested the motions he will consider by December 29th.

Under the Protective Order entered in this Action, Netlist's Motion to De-designate and the related Motion to Expedite are discovery-related motions subject to the Federal and Local Rules governing motions to compel. Dkt. 60 ¶ 19. On December 8, 2023, this Court appointed Judge Folsom as a Special Master in this proceeding to conduct a hearing on the parties' pending discovery disputes.¹ Dkt. 269. Neither party objected to the appointment. *Id.*

Micron opposes the assignment to Judge Folsom. The only explicable basis for this is delay.

Netlist's Motion to Dedeignate and the related Motion to Expedite represent a pending discovery dispute between the parties. As detailed in the Motion to De-designate, Netlist has made repeated efforts to get Micron to comply with the Protective Order by properly identifying what, if any, information in Mr. Cyr's transcript was confidential. *See* Dkt. 274 at 6-7. After repeatedly failing to respond, during a lead-to-lead meet and confer, counsel for Micron could not provide any explanation as to why the requested testimony was confidential, instead announcing that it was keeping the designation to prevent the testimony from being presented to the PTAB. *See id.* at 1. Also, time is of the essence in light of the current schedule in the IPR proceedings. *See* Dkt. 279 (Motion to Expedite) at 2.

On November 21, 2023, the Special Master indicated that this issue is not currently within his remit. Accordingly, Netlist requests that Netlist's Motion to De-designate and the related Motion to Expedite be referred to the Special Master for a speedy and efficient resolution.

Dated: December 21, 2023

Respectfully submitted,

¹ Dkt. Nos. 128, 139, 142, 158, 176, 193, 199, 202, 218, 220, 221, 222, 223, 224, 225, and 226.

/s/ Jason G. Sheasby

Jason G. Sheasby

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Attorneys for Plaintiff Netlist, Inc.

CERTIFICATE OF SERVICE

I hereby certify that, on December 21, 2023, a copy of the foregoing was served on all counsel of record.

/s/ Yanan Zhao
Yanan Zhao

CERTIFICATE OF CONFERENCE

I hereby certify that, on December 21, 2023, the lead and local counsel for both Netlist and Micron joined the conference call with Special Master, Hon. David Folsom. Micron stated that it opposes referring Netlist's motions to de-designate and motion to expedite to the Special Master.

/s/ Jason Sheasby
Jason Sheasby